

INELIGIBLE VOLUNTEER RECORD S
REGISTRATION SERVICE
BOY SCOUTS OF AMERICA

DATE: 2/9/90

FULL NAME Darrauld Timmie Ostocowich S.S. NO.
(No initials if you can possibly get full name)

ADDRESS

CITY STATE CA ZIP CODE

DATE OF BIRTH (This is important and should be exact)

APPROXIMATE AGE (To be used ONLY when date of birth is not known)

RELIGION NATIONALITY (Citizen of)

OCCUPATION

EDUCATION

WEIGHT HEIGHT RACE

COLOR OF HAIR COLOR OF EYES

ANY DISTINGUISHING PHYSICAL CHARACTERSTICS

HOBBIES OR SPECIAL INTERESTS

MARRIED SINGLE NAME OF SPOUSE

CHILDREN

(Name, number, ages, if possible)

SCOUTING CONNECTIONS:

UNIT #	CITY	STATE	POSITION	DATE REGISTERED	DATE RESIGNED
			ASM		

Chartered Organization

SPECIAL RECOGNITION

INCIDENT: TYPE	DATE OF INCIDENT	RESOLUTION
Type		Resolution

- 1=Scout Related
2=Non-scout related
3=homosexual (not specifically with youth)

1. Internal (only Scouts Know)
2. Criminal action
3. Court action
4. Probationary status
5. Reported to state agency

NOTED

MAR 05 1990

JOSEPH L. ANGLIM Off list of attached documentation

1. Description of incident
2. Victim(s) statement
3. media reports
4. Legal proceedings
5. Offender's statement
6. Official notification of termination
7. Found guilty/innocent by court

He is a pedophile who admitted to molesting 9-11 yr old boys he met at Cub Scout meetings

Council Signed Registration/National
SCOUT EXECUTIVE

3823r-eko-9/22/89

CONF018619

March 7, 1990

Mr. Ed C. Jacobs
Scout Executive
Los Angeles Area Council, No. 33

PERSONAL AND CONFIDENTIAL

SUBJECT: GARRALD TIMMIE OSTOPOWICH

Dear Ed:

Thank you for the detailed information sent concerning the above Scouter. This case has been reviewed with our attorney and is now on our permanent Ineligible Volunteer File.

Sincerely,

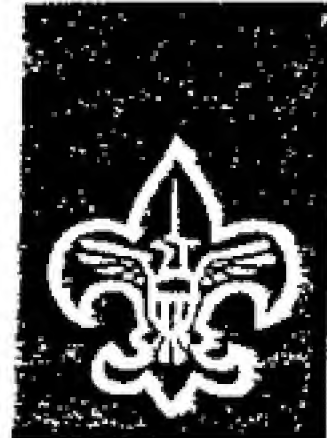
Paul Ernst, Director
Registration Service

ag

cc: Western Region

READY TO FILE
MAR 07 1990
ERIN O'RILEY

CONF018620



SCOUTING/USA

Cub Scout, Scout, Explorer programs

Los Angeles Area Council
Boy Scouts of America

Los Angeles, California 90026

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Cecoran Nocio
Michael E. Parker
John P. Pollock
Keith W. Renken
Dr. James M. Rosser
Ruth B. Shannon
Richard W. Stagemeyer
R. Paul St. Amand, M.D.
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Francis L. Dale '81
R. Paul St. Amand, M.D. '80
Donald W. Crocker '79
Lee R. Sollenberger '78
Peter J. Pitchess '77
John M. Russon '76
E. L. Shannon, Jr. '74, '75
Arthur D. MacDonald '72, '73
John P. Pollock '71

January 19, 1990

Mr. Paul Ernst
Director of Registration Service
National Office
Boy Scouts of America

Irving, Texas 75015-2079

Dear Paul,

I still am not able to find information on Darrauld Jimmie Ostopowich. I have reviewed the name with several of the staff members and with the registrar and find that no one has knowledge of the name nor do we find his name on our computer or are we aware that he has ever been registered in any unit within this council.

With the unit number, I am sure we could be more helpful. Have you tried the other councils in the Los Angeles area?

Sincerely yours,

Richard B. Frans
Vice President, Development

RBF/md

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Los Angeles Area Council Trust Fund
supports Scouting beyond one's lifetime.



United Way

CONF018621

READY FOR FILE

JAN 10 1990

JULIE FIELDER

January 10, 1990

Mr. Richard B. Frans
Vice President Development
Los Angeles Area Council, No. 33

PERSONAL AND CONFIDENTIAL

SUBJECT: BARRALD TIMMIE OSTOROWICH

Dear Dick:

Thank you for your letter of January 5, concerning the above named individual. Let me give you a little more information.

I have a copy of a criminal law procedure from the Superior Court of Los Angeles County related to the above named individual. This was Case No. 8042064. It, also, had several other numbers which had information which had previously taken place. In the information which I have a copy of, this appeared in the daily journal DA110748. On February 7, 1989 the court appointed psychiatrist reported to the court that the defendant was a pedophile. The defendant had estimated that he had sex with 50 boys. Most of these were 9 to 11 year old boys who he met at Cub Scout meetings where he was involved.

All I need at the present time, is some additional information concerning this individual, so that we could identify him should he attempt registration after getting out of prison. That is the reason I am asking you for a record sheet at this time.

I do not know what to tell you except that he was involved with some youth through Scouting and I do not even know what council and, therefore, am asking for a record sheet to identify him. Perhaps, you could check some older registration records and determine if he was registered in the past in your council and, therefore, you could get some information on his size and other personal characteristics.

CONF018622

Thanks for your help. I am enclosing a record sheet for your use.

Sincerely,

Paul Ernst, Director
Registration Service

jf

Enclosure

cc: Western Region
Ed C. Jacobs, Scout Executive-No. 33



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Los Angeles, California 90026

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Arthur O. MacDonald '72, '73
John P. Pollock '71

January 5, 1990

Mr. Paul Ernst
Director of Registration Service
National Council
Boy Scouts of America

Irving, Texas 75015-2079

Dear Paul,

I find no information in our computers concerning
Darnald Timmie Ostopowich as described in the
attached letter. If you can give us additional
information we will be glad to check it out.

Sincerely yours,

Richard B. Frans
Vice President Development

RBF/md

cc: Edward C. Jacobs

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United Way

CONF018624

January 2, 1990

READY FOR FILE

DEC 29 1989

A. GRAVES

Mr. Ed C. Jacobs
Scout Executive
Los Angeles Area Council, No. 33

PERSONAL AND CONFIDENTIAL

SUBJECT: Darrauld Timmie Ostapowich

Dear Ed:

We recently received information concerning the above named individual. It indicated he was a pedophile, who admitted to molesting 9-11 year old boys he met at Cubscout meetings.

I am enclosing an Ineligible Volunteer Record Sheet which I would like to have completed, so we can identify this individual. Please complete this with as much information as you have available.

We would, also, like to have any other material which would help us in completing our file. We really would like to close this matter at this time.

Sincerely,

Paul Ernst, Director
Registration Service

ag

Enclosure

cc: Western Region

CONF018625

READY FOR FILE

September 28, 1989

SEP 29 1989

JULIE EATON

Mr. Ed C. Jacobs
Scout Executive
Los Angeles Area Council, No. 33

PERSONAL AND CONFIDENTIAL

SUBJECT: DARRALD TIMMIE OSTOPOWICH

Dear Ed:

We recently received information that the above named individual had previously been registered as a Cub Scout leader. It was also indicated that a psychiatrist had reported that he was a pedophile, who had admitted molesting 9-11 year old boys.

I am enclosing an Ineligible Volunteer Record Sheet which I would like to have you complete so that we can identify Mr. Ostopowich, should he attempt registration in some other location. Please give us as much information as you have available, so we can identify him, should he move to another part of the country.

We would also like to have any other material you might have available, through newspaper clippings or court records that would help us in having a complete file.

Sincerely,

Paul Ernst, Director
Registration Service

eko

cc: Western Region

CONF018626



BOY SCOUTS OF AMERICA

National Office

Irving, Texas 75015-2079

September 26, 1989

SUBJECT: CANDIDATE FOR INELIGIBLE VOLUNTEER FILE

From: Debra C. Duhs

To: Paul I. Ernst

The attached is a report on the criminal trial of Darrauld Timmie Ostopowich. The court-appointed psychiatrist reported to the court that Ostopowich was a pedophile who admitted to molesting 9-11 year old boys he met at Cub Scout meetings. If Mr. Ostopowich is not already in the Ineligible Volunteer File, I recommend that his name be placed in the file as it was the psychiatrist's opinion in February 1989 that Ostopowich presented a substantial danger of doing bodily harm to others.

sd

*Added to CF file 9/24/89
How me reg on
National computer.
9/23/89*

CONFIDENTIAL & PRIVILEGED
LEGAL COMMUNICATION

CONF018627

346, modified, 209 Cal.App.3d 1098b (rev. denied) (Lomboy retroactive to September 13, 1979, the effective date of legislation authorizing extensions of commitments of persons found not guilty by reason of insanity).)

The People do not contend that the ambiguous references extension when defendant's plea was taken constituted compliance with Lomboy. Rather, they argue that Lomboy was incorrectly decided, and in any event should not be applied to invalidate pleas taken before it was decided.

Only our Supreme Court is invested with power to break the deadlock between Bannister and McIntyre. We ourselves have grievous doubts whether Lomboy was correctly decided, and whether it is properly extended to confer a right to withdraw a guilty plea upon a defendant who, unlike the defendant in Lomboy, only raises the issue years later after accepting the benefits of his plea. (See *People v. Superior Court (Wagner)* (1989) 210 Cal.App.3d 1146, 1150-1153.) We also are dubious of defendant's assertion that had he been informed of the possibility of an extension of his state hospital commitment, he would have pleaded not guilty; this hardly seems consistent with the fact that at the time of his plea, the main agreement he procured was the guarantee that if the court did not send him to the state hospital, then he could withdraw his guilty plea and defend himself in order to resist being sent to prison.

In the present case, however, even if both Lomboy and McIntyre are sound, Lomboy is distinguishable. Lomboy, Bannister, and McIntyre all involved defendants committed to the state hospital after they elected to plead not guilty by reason of insanity. Without entry of such a plea, the only possible outcomes facing such defendants are dismissal, acquittal, and penal commitment; the court is powerless to force a defendant to invoke the insanity defense. (See Pen. Code, § 1025, subd. (a).)

The Mentally Disordered Sex Offender procedure was different. Upon conviction of a sex offense, on motion of the prosecutor, or on the court's own motion, the court was authorized to institute a proceeding to determine whether the defendant is a mentally disordered sex offender. (Former § 6302, subd. (a).) If, as here, the defendant was charged with felony child molestation, the court was required to institute such a proceeding. (Id., subd. (c).) A hearing was held, and the defendant's consent was not required before the court could find him to be a mentally disordered sex offender who could benefit by treatment in a state hospital. (See former § 6316, subd. (a).) The defendant had only the right to challenge an order committing him as a mentally disordered sex offender by obtaining a jury's determination whether he was such an offender. (See former §§ 6318, 6321.)

Thus commitment as a mentally disordered sex offender was a consequence of the offense committed by the defendant and the trial court's finding that he was a person who by reason of mental defect, disease, or disorder, was predisposed to the commission of sexual offenses to such a degree that he was dangerous to the health and safety of others. (Former § 6300.) Such a commitment was not a consequence which a defendant could have avoided by a different plea. Here, defendant has not contended either that he did not commit the criminal acts alleged or that he was not properly found to be a mentally disordered sex offender.

Accordingly, the trial court erred in granting defendant's motion to dismiss the petition for extended commitment on the ground he was not informed, when he pleaded guilty in 1981, of the possibility of an extension of his commitment.

All parties were informed by order entered July 26, 1989, that this court was considering issuing a peremptory writ in the first instance. (Code Civ. Proc., § 1088; *Palma v. U.S. Industrial Fasteners, Inc.* (9134) 36 Cal.3d 171, 177-180.) Contrary to real party's assertion the record is not incomplete.

The parties having been afforded an opportunity to brief the issues fully, issuance of an alternative writ would add nothing to the exposition of the issues.

Let a peremptory writ of mandate issue, directing respon-

dent to vacate its order of April 24, 1989, granting real party's motion to dismiss the petition for extended commitment, and enter a new different order denying real party's motion.

COMPTON, Acting P.J.

We concur:

GATES, J.

FUKUTO, J.

ORDER

Cite as 89 Daily Journal D.A.R. 10749

VALA PICHON,
Plaintiff-Appellant,

v.

PACIFIC GAS AND ELECTRIC CO. et al.,
Defendants-Respondents.

No A041929

Super. Ct. No. 333503

California Court of Appeal

First Appellate District

Division One

Filed August 23, 1989

THE COURT

It is ordered that the opinion filed herein on July 24, 1989, be modified in the following particulars:

On page 2, second paragraph, items (2) and (3) are replaced with the following:

(2) The exclusivity of workers' compensation does not preclude causes of action for economic or contract damages; however, the employer does have the right to set-off from any damages the amount of compensation paid. (3) A compromise and release executed in settlement of appellant's workers' compensation claim does not preclude appellant from suing for breach of contract, termination in violation of public policy, or breach of the covenant of good faith and fair dealing.

On page 14, footnote 8 is revised to read:

^{1/} By voluntarily limiting his claims to economic damages, appellant waived any non-economic damages that might have been recoverable pursuant to his public policy cause of action. (See *Foley v. Interactive Data Corp.*, supra, 47 Cal.3d 554, 567 (court held that tort damages are available for termination in violation of public policy).) Our decision does not preclude appellant from attempting to prove his cause of action for termination in violation of public policy. If appellant should prevail on that theory, however, he may only recover damages for lost wages and loss of job benefits not attributable to any injury to his psyche.

In *Foley*, the court also held that tort damages are unavailable for a cause of action for breach of the implied covenant of good faith and fair dealing in an employment contract. (Id. at p. 632-639.) *Foley* has been held to be fully retroactive. (*Newman v. Emerson Radio Corp.* (1989) 48 Cal.3d 973.) We leave it to the trial court to determine whether, in light of the unavailability of tort damages on the breach of the covenant cause of action, appellant has any other elements of damages that might be recoverable.

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